

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

ITHACA VENTURES k.s. and ITHACA  
DEVELOPMENT, LLC,

Plaintiffs,

C.A. No. 1:13-cv-00824 GMS

V.

NINTENDO OF AMERICA INC. and  
NINTENDO CO., LTD.

Defendants.

**DECLARATION OF VINCENT AJAY SINGH  
IN SUPPORT OF MOTION TO TRANSFER**

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I, Vincent Ajay Singh, declare:

1. I make this declaration on the basis of personal knowledge, and if called to testify as a witness, I would and could testify competently hereto.

2. I am a Corporate Counsel at Nintendo of America Inc. ("NOA"). I have been employed by NOA since February 2011. I make this declaration in support of Nintendo's Motion to Transfer Venue to the Western District of Washington.

3. NOA is a Washington (state) company with its principal place of business in Redmond, Washington. NOA is a wholly-owned subsidiary of Nintendo Co., Ltd. ("NCL").

4. NCL is a Japanese company with its headquarters in Kyoto, Japan. NCL employees in Japan develop Nintendo's video-game systems and peripherals, including the Wii Balance Board. The Wii Balance Board was designed and developed in Japan. NCL's design documents, and most development-related documents, are in Japan. NCL maintains technical documents relating to the development of the Wii Balance Board. NCL does not operate an office in Delaware, employ anyone in Delaware, or maintain any files in Delaware.

5. NOA is responsible for marketing, selling, and distributing Nintendo products in the United States. NOA has 1,204 employees, most of whom work in one of NOA's three facilities in Washington (Redmond, Kirkland, and North Bend). The majority of NOA's employees work at NOA's Redmond, Washington headquarters. The Wii Balance Board product is marketed and sold in the state of Washington.

6. NOA's Redmond headquarters is the strategic center of NOA's business. NOA's President is based in Redmond. Most decisions relating to NOA's overall business strategy are made in Redmond, and key sales and marketing decisions about the sale of Nintendo's products in the United States also generally occur in Redmond. Many documents relevant to this case are

located in Redmond, including documents relating to finance, sales, designs for manuals and product packaging, licensing, contracts and agreements, advertising, and marketing. There are also technical documents relating to the Wii Balance Board in Redmond, but the majority of such documents are in Japan. NOA also has an office in Redwood City, California, where its Senior Vice-President of Marketing is based. Implementation of marketing plans is handled out of Redwood City.

7. NOA does not operate an office in Delaware, employ anyone in Delaware, or maintain any files in Delaware.<sup>1</sup>

8. NOA's potential witnesses in this case of whom I am aware include:

*Jacqualee Story.* Ms. Story is the Executive Vice President of Business Affairs for NOA. She has knowledge about Nintendo's background, corporate history, licenses, sales and marketing, and Nintendo products in general, including the Nintendo Balance Board. Ms. Story works at NOA's Redmond headquarters.

*Rod Teuber.* Mr. Teuber is the Corporate Comptroller for NOA. Mr. Teuber coordinates Nintendo's financial reporting activities, assuring proper financial reporting and compliance with generally accepted accounting principles. Mr. Teuber has knowledge about sales and distribution of Nintendo's products in the United States, including such knowledge about the Wii Balance Board. Mr. Teuber works at NOA's Redmond headquarters.

*Steve Rabin.* Mr. Rabin is a Principal Software Support Engineer for NOA. Mr. Rabin provides technical assistance to third-party software developers who are developing games for Nintendo's video-game systems. Mr. Rabin has technical knowledge regarding how Nintendo's systems (such as the Wii) interact with some game software and Wii peripherals such as the Balance Board. Mr. Rabin works at NOA's Redmond headquarters.

*JC Rodrigo.* Mr. Rodrigo is a Senior Product Marketing Specialist for NOA of Nintendo products, including the Wii Balance Board. He is adept at playing games on the Wii system using the Wii Balance Board and has knowledge of how the Wii Balance Board operates during game play. Mr. Rodrigo works at NOA's Redmond headquarters.

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<sup>1</sup> NOA has a subsidiary, NES Merchandising, Inc. ("NMI"), that supports NOA's retail sales throughout the United States, including Delaware. But NMI does not possess any documents relevant to this action, or employ anyone with knowledge relevant to this action. No NMI employees live in Delaware.

9. Trial in the Western District of Washington would be much more convenient and cost effective for NOA employees than trial in Delaware. NOA's headquarters in Redmond, Washington is only about thirty minutes from the courthouse. Witnesses could make an easy trip to court in the Western District of Washington, and would not have to be away from their work or families for an extended period of time, as they would be if trial takes place in Delaware. A trial in the Western District of Washington would be less disruptive for their work schedules. Traveling to Delaware would be much more inconvenient and costly because NOA witnesses could not make day trips to and from Delaware, and would not have a place to work if required to stay in Delaware for extended periods of time.

10. Potential witnesses in this case from NCL of whom I am aware include:

*Hitoshi Yamazaki:* Mr. Yamazaki belongs to Technology Coordination Group, EAD Technology Development Department, Entertainment Analysis & Development Division at Nintendo Co., Ltd. ("NCL"), and has technical knowledge of the design and development of the Wii Balance Board. He lives in Japan.

*Takeshi Nagareda:* Mr. Nagareda is Assistant Manager of Electrical Engineering Group, Product Development Department No. 2, Integrated Research & Development Division at NCL, and has technical knowledge of the design and development of the Wii Balance Board. He lives in Japan.

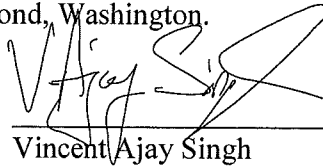
11. Appearing for trial in the Western District of Washington would be much more convenient and cost effective for NCL employees than trial in Delaware. Seattle is closer to Japan and more convenient than travel to Delaware. Nonstop flights are available from Tokyo to Seattle. However, there are no nonstop flights from Tokyo to Philadelphia. Further, if trial were held in the Western District of Washington, NCL witnesses could use NOA's headquarters in Redmond as a base of operations while they are away from home. Thus, their work schedule would not be disrupted as much by a trial in the Western District of Washington.

12. Costs for NOA and NCL of proceeding through trial in Delaware will far exceed costs of proceeding in NOA's home state of Washington. In addition to the considerations above, Nintendo will incur added costs of conducting trial across the country - including shipping costs for prior art exhibits, which can be bulky - and costs of lead counsel relocating for the duration of trial.

13. Sandra Hatcher, described as an important witness by plaintiffs in Paragraph 16 of the Complaint, is a former NOA senior licensing manager. She no longer works for NOA. I am informed that she lives in Maple Valley, Washington.

**I declare under penalty of perjury that the foregoing is true and correct.**

Executed August <sup>28</sup>, 2013, at Redmond, Washington.



Vincent Ajay Singh

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**CERTIFICATE OF SERVICE**

I, David E. Moore, hereby certify that on August 29, 2013, the attached document was electronically filed with the Clerk of the Court using CM/ECF which will send notification to the registered attorney(s) of record that the document has been filed and is available for viewing and downloading.

I hereby certify that on August 29, 2013, the attached document was electronically mailed to the following person(s)

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